

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

EVA BARRETT,

Petitioner,

v.

**Civ. Action No. 1:19-CV-102
(Kleeh)**

WARDEN ENTZEL,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 5]
AND DISMISSING PETITION WITH PREJUDICE**

On May 6, 2019, the pro se Petitioner, Eva Barrett ("Barrett"), filed a Petition for Habeas Corpus Pursuant to 28 U.S.C. § 2241, asking the Court for a reduction in her sentence based on successful completion of the Residential Drug Abuse Treatment Program ("RDAP"). She asks the Court to strike the provision of 18 U.S.C. § 3621(e) that prohibits sentence reductions for RDAP completion when the offender received a firearm-based sentencing enhancement.

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloi (the "Magistrate Judge") for initial review. On September 4, 2019, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss this matter with prejudice. The R&R also informed the parties that they had fourteen days (and an additional three days for mailing) from the entry of

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the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." ECF No. 5 at 12. It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of *de novo* review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Id. at 13. Barrett accepted service on September 9, 2019. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations to which the [parties do] not object." Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 5]. This action is **DISMISSED WITH PREJUDICE** and **STRICKEN** from the Court's active

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docket.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and to the pro se prisoner, via certified mail, return receipt requested.

DATED: November 26, 2019

Tom S Klee

THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE